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1-26-04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of. Alessandro Donatelli, et al

Date: Jan. 22, 2004

Serial No.: 09/576,696

Filed: May 23, 2000

Group No.: 2155

For: Managing Pervasive Devices

Examiner: Shabana Qureshi

To: Hon. Commissioner of Patents
Alexandria, VA 22313-1450

**TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION-37 CFR 192)**

Sir:

Transmitted herewith in triplicate is the APPEAL BRIEF in this application with respect to the Notice of Appeal filed on Nov. 25, 2003.

2. STATUS OF APPLICATION

This application is on behalf of

 X other than a small entity

small entity
verified statement: ☐ attached ☐ already filed

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 CFR 1.17(f) the fee for filing the Appeal Brief is:

Small entity	\$160.00
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<u> X </u>	Other than a small entity	\$330.00
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Appeal Brief fee due	\$330.00
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Attorney Docket No. GB920000048US1

4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

- (a) Application petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

<u>Extension (months)</u>	<u>Fee for other than a small entity</u>
<input type="checkbox"/> one month	\$ 110.00
<input type="checkbox"/> two months	\$ 400.00
<input type="checkbox"/> three months	\$ 920.00
<input type="checkbox"/> four months	\$1440.00

- (b) Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee \$330.00
Extension fee (if any) _____

TOTAL FEE DUE \$330.00

6. FEE PAYMENT

☒ Attached is a check in the sum of \$ _____
Charge Account No. 09-0461 the sum of \$330.00 _____
(a duplicate of this transmittal is attached)

7. FEE DEFICIENCY

- ☐ If any additional extension and/or fee is required, this is a request therefor and to charge Account No. 09-0461.
- ☐ If any additional fee for claims is required, charge Account No. 09-0461.

Gerald R. Woods
Signature of Attorney

Reg. No.: 24,144
Tel. No.: 919-543-7204 - Fax 919-254-4330

Gerald R. Woods
IBM Corporation, IPLaw, T81/503
3039 Cornwallis Road
Research Triangle Park, NC 27709

In the United States Patent and Trademark Office

Date: January 22, 2004

In re Application of: Alexandro Donatelli et al

Filed: May 23, 2000

For: Managing Pervasive Devices

Serial Number: 09/576,696

Art Unit: 2155

Examiner: Qureshi, Shabana

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a brief in support of Applicants' appeal from the final rejection of claims in the subject application.

Real Party in Interest

The real party in interest in this appeal is International Business Machines Corporation of Armonk, New York, being the assignee of Applicant's right, title and interest in the invention.

Related Appeals and Interferences

There are no known pending appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

Status of Claims

This appeal is from the final rejection of claims 17-32, which constitute all of the claims in the subject application. The claims on appeal, reproduced in an Appendix to this brief, are

substantially in the same form as originally filed in a preliminary amendment. That preliminary amendment canceled original claims 1-16 before those claims were even considered by the Examiner. No other claims were added or canceled during prosecution of the subject application

Status of Amendments

No response was filed to the final rejection dated August 26, 2003. Applicants chose to proceed directly with this appeal.

Summary of Invention

The present invention relates to techniques for configuring a pervasive device, such as a PDA (Personal Digital Assistant), without requiring intervention by the pervasive device user in the configuration process. The techniques are implemented in a four tier management system in which the top tier is a management server, the second tier is an ORB (Object Request Broker) gateway device and the third tier is an endpoint or workstation.

The fourth tier is the pervasive device that is managed by an agent program resident in the endpoint/workstation. When a pervasive device user first attempts to synchronize the contents of the pervasive device with contents of a server, the endpoint/workstation responds by transferring a device agent to the pervasive device and then by transferring configuration information to the pervasive device agent. The pervasive device agent then executes configuration commands based on the transferred configuration information to configure the pervasive device.

A couple of things need to be emphasized. One is that the present invention exists in the context of a system in which synchronization of a pervasive device with a server is initiated by the user of the pervasive device. The other is that device agent code needed to complete the configuration process is transferred from an endpoint/workstation to the pervasive device automatically.

Issues

The only issue presented for review on this appeal is whether the subject matter of the finally-rejected claims is anticipated under 35 U.S.C. 102(e) by the teachings of United States Patent 6,219,694 - Lazardis et al (hereinafter Lazaradis). No other references have been applied against the claims. No other grounds for rejection have been expressed.

Grouping of Claims

For purposes of appeal, all of the claims of this application stand or fall together.

Arguments

One of ordinary skill in the art would not even look to Lazarus in trying to deal with the problem solved by Applicants.

As noted earlier, Applicants' invention deals with the problem of configuring pervasive devices used in the type of system in which users must periodically perform synchronization operations in order to synchronize the data stored on the pervasive device with data stored on a remote server. Also, as already noted, the configuration process is triggered when a pervasive device user attempts to initially synchronize the pervasive device with the server.

Each of the claims on appeal contains language which makes it clear that the present invention is implemented in a "synchronization environment". For example, claim 17 recites a "gateway component resident on a workstation" and specifies the component is "*instantiable during synchronization of said workstation with a pervasive device*". Corresponding language can be found in the other independent claims on appeal, specifically: claim 22 (to a system for managing pervasive devices), claim 28 (to a method for managing pervasive devices) and claim 32 (to a program product for managing pervasive devices).

The Lazardis specification goes to great pains to establish that the Lazardis system is not a synchronization based system. Note Column 1, lines 26-34, where the specification states:

"Instead of warehousing (or storing) the user's data items at the host system and then 'synchronizing' the mobile data communication device to data items stored at the host system when the mobile device requests . . . , the present invention employs a 'push' paradigm that continuously packages and retransmits the user-selected items of information to the mobile data communications device in response to a triggering event detected at the host system."

Other language in the Lazardis specification reinforce the notion that Lazardis does not operate in the same environment as the present invention. Because Lazardis does not operate in a synchronization environment, it is hard to see how Lazardis can be said to teach any component instantiable during synchronization of said workstation with a pervasive device.

The Lazardis patent fails to teach essential elements; namely, transferring a device agent from an endpoint/workstation to a pervasive device at the start of a synchroniation operation and then using that transferred agent to configure the pervasive device.

Each of the claims on appeal recites that a gateway component on a workstation is used to transfer a device agent to a pervasive device and that device agent, once resident on the pervasive device, is used in configuring the pervasive device.

The final rejection of all independent claims in the application asserts Lazardis teaches a gateway component resident on a workstation that is instantiated during synchronization of the workstation with a pervasive device. The final rejection does not identify specific language in the Lazardis specification in support of the assertion.

It is Applicants' position that there is no language in Lazardis that can reasonably be interpreted as supporting the assertion. Since Lazardis makes it clear that its system is not a synchronization system, how can Lazardis possibly be said to teach a component that is instantiated during a synchronization operation?

The final rejection cites language at column 10, lines 21-67, and column 4, lines 39-67, of the Lazardis specification to support the assertion that Lazardis teaches the transfer of a device agent to a pervasive device.

Lazardis teach no such thing. The column 10 language is directed specifically to a redirector program which executes at a host system. While the language refers to configuration steps, it is clear that what is being configured is the redirector program itself. There is no mention of any device agent that is transferred to a pervasive device. In fact, the only thing the Lazardis patent indicates that is ever transferred to a pervasive device are data items that are selected and processed in the host system redirector program.

The column 4 language indicates that a second redirector program may operate in the pervasive device and be used to "push" data to the host system. Clearly, a program that pushes data from a pervasive device to a host system is something quite different than a program that is transferred from the host system to the pervasive device.

There is nothing in the cited language that deals with operations performed in configuring the pervasive device. Lazardis apparently presumes the pervasive device is already configured by the time his system comes into play.

The independent claims clearly are not anticipated by the teaches of Lazardis. Moreover, there is nothing in Lazardis that might be construed as suggesting the pervasive device configuration components of the independent claims on appeal.

The dependent claims on appeal are patentable for at least the same reasons their parent independent claims are patentable

Applicants do not wish to lengthen this appeal brief by going into excruciating detail how the dependent claims on appeal recite even more elements which are neither taught nor suggested by Lazardis et al. The simple fact is that teachings of the Lazardis patent are not relevant to the

independent claims and, by definition, are equally or more irrelevant to the dependent claims based on those independent claims.

Conclusion

The claims on appeal are neither anticipated by nor obvious in view of the Lazardis patent, the only prior art cited against those claims. The claims are allowable as written.

Respectfully Submitted,



Gerald R. Woods, Reg. No. 24,144
Attorney of Record

IBM Corporation
T81/503
PO Box 12195
Research Triangle Park, NC 27709
919-(919) 543 - 7204
FAX 919-254-4330

Appendix

17. For managing pervasive devices, a gateway component resident on a workstation, said gateway component being instantiable during synchronisation of said workstation with a pervasive device and comprising:

means for transferring a device agent to a pervasive device; and

means for transmitting configuration information to the device agent, said agent comprising means for executing configuration commands in response to the configuration information received from the gateway component.

18. A gateway component as defined in claim 17 further including:

means for receiving a file from a management server including the address of a specific pervasive device and one or more commands;

means for generating device-specific commands based on the received file; and

means for forwarding the device-specific commands to the device agent at the specific pervasive device identified in the file received from the management server, said device agent executing the device-specific commands as they are received.

19. A gateway component as identified in claim 18 wherein the commands comprise commands for removing files from the specific pervasive device.

20. A gateway component as identified in claim 17 further including:

means for receiving a file from a management server including the address of a specific pervasive device and one or more commands;

means for generating device-specific commands based on the received file; and

means for forwarding the device-specific commands to the device agent at the specific pervasive device identified in the file received from the management server, said device agent storing the device-specific commands for execution after all are received.

21. A gateway component as identified in claim 20 wherein the commands comprising database or application configuration commands.

22. A system for managing pervasive devices,

a gateway component resident on a workstation, said gateway component being instantiable during synchronisation of said workstation with a pervasive device and comprising:

means for transferring a device agent to a pervasive device, and

means for transmitting configuration information to the device agent; and

a pervasive device component including the device agent received from the workstation, said device agent including means for executing configuration commands in response to the configuration information received from the gateway component.

23. A system as defined in claim 22 wherein the device agent in said pervasive device component includes means for deleting the configuration commands when the pervasive device has been configured.
24. A system as defined in claim 23 wherein said pervasive device component includes means for deleting the device agent once configuration is complete.
25. A system as defined in claim 22 further including:
- a controller resident on the workstation for pervasive devices of a given type, said controller instantiating one or more modules during synchronisation of devices of the given type; and
 - an enabling component including means for configuring the controller to add said gateway component as a module to any modules instantiated during synchronisation of pervasive devices of the given type.
26. A system as defined in claim 25 wherein said pervasive device is a Palm Computing Platform device and wherein said controller comprises a mask defining any conduit modules which are instantiated during synchronisation of a pervasive device and wherein said enabling component comprises means for configuring said controller to selectively add said gateway component as a module to any modules which are instantiated during synchronisation of said pervasive device.
27. A system as defined in claim 22 wherein said device agent, in response to a request from said gateway agent, performs an inventory of software installed on the pervasive device and returns the inventory to said gateway component.

28. A method for managing pervasive devices comprising the steps of:
- instantiating a gateway component to be resident on a workstation during synchronisation of said workstation with a pervasive device,
 - transferring a device agent from the gateway component to the pervasive device;
 - transmitting configuration information from the gateway component to the device agent at the pervasive device, and
 - executing configuration commands at the pervasive device in response to configuration information received from the gateway component.
29. A method as defined in claim 28 including the additional step of deleting the configuration commands at the pervasive device when the pervasive device has been configured.
30. A system as defined in claim 29 including the additional step of deleting the device agent at the pervasive device once configuration is complete.
31. A system as defined in claims 28 - 30 including the additional step of having the device agent at the pervasive device perform an inventory of software installed on the pervasive device and return the inventory to said gateway component.
32. A program product comprising a computer usable medium having a computer readable program embodied in said medium, wherein the computer readable program when executed on a computer causes the computer to:

instantiate a gateway component resident on a workstation during synchronisation of said workstation with a pervasive device,

transfer a device agent from the gateway component to the pervasive device;

transmit configuration information from the gateway component to the device agent at the pervasive device, and

direct execution of configuration commands at the pervasive device following receipt of configuration information from the gateway component.